

# CABINET

Thursday, 15 January 2015

<u>Present:</u>	Councillor	P Davies (Chair)	Leader of the Council
	Councillors	AR McLachlan	Governance, Commissioning and Improvement
		G Davies	Neighbourhoods, Housing and Engagement
		AER Jones	Support Services
		C Jones	Adult Social Care and Public Health
		C Meaden	Leisure, Sport and Culture
		P Hackett	Economy
		Tony Smith	Children and Family Services
		B Mooney	Environment and Sustainability
		S Whittingham	Highways and Transport

## 121 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Councillor Stuart Whittingham declared a personal and prejudicial interest in Item No. 10 on the agenda – Community Infrastructure Levy – Progress Update (Minute No. 131 refers.) by virtue of him being a Director of Magenta Living. He indicated that he would be leaving the meeting whilst the item was under discussion.

Councillor Bernie Mooney declared a personal interest in Item No. 12 on the agenda – Public Health Investments 2015/16 (Minute No. 133 refers.) by virtue of her working for Age UK.

## 122 MINUTES

### RESOLVED:

**That the Minutes of the meeting of the Committee held on 17 December 2014 be confirmed as a correct record.**

## 123 WIRRAL COUNCIL - SHORTLISTED FOR FOUR LOCAL GOVERNMENT CHRONICLE AWARDS

Councillor Phil Davies reported that the Council had received national recognition having being shortlisted for four local government awards by the Local Government Chronicle. They were for:

- Most Improved Council
- Efficiency

- Driving Growth
- Entrepreneurial Council of the Year

The awards were shortlisted and judged by a range of Chief Executives from national and local government as well as major private sector employers. Councillor Phil Davies informed that the 'Most Improved Council' category was one of the most prestigious awards in local government, and being shortlisted for it demonstrated how much the Council had progressed during the past few years. The hard work of Members, staff and partners was paying off and this momentum must be maintained so that Wirral could become an outstanding Council.

The Awards Ceremony was scheduled for 11 March 2015 at Grosvenor House, London. Councillor Phil Davies informed that he was looking forward to the final stages of the competition and thanked everyone concerned with putting the applications forward.

#### 124 **REVENUE MONITORING 2014/15 MONTH 8 (NOVEMBER 2014)**

Councillor Phil Davies introduced a report by the Acting Section 151 Officer, setting out the revenue position for 2014/15, which at Month 8 (November 2014) showed a projected General Fund of £0.85 million (0.3% of the net revenue budget). This showed an improvement compared with a projected overspend reported at Month 7 of £2.25 million as detailed in Graph 1. This £1.4 million improvement followed a review undertaken by all Directorates to identify areas to assist, contain and reduce the projected overspend with the major reductions within the Regeneration & Environment and Transformation and Resources Directorates.

The Cabinet was informed that the projected overspend originated in the main from the Families and Wellbeing Directorate. Adult Social Services projected overspend remained at £2.7 million in Month 8 mainly due to slippage or non-delivery of in year savings and demand pressures. The Children's area was forecasting an overspend of £330,000 (down from the Month 7 projection of £552,000) largely due to the non-achievement of in year transport savings as well as costs of external placements. A series of management actions are taking place within the Directorate to help compensate and/or limit any variances.

Councillor Phil Davies informed that the Council's balances were healthy because it had put funding to one side for its remodelling initiative and asked officers to continue to bear down on any possible slippage in savings as it was important to balance the books.

The following were appended to the report:

Annex 1      Revenue Monitoring and Reporting Timetable 2014/15.

Annex 2	General Fund Revenue Budget for 2014/15 agreed by Council.
Annex 3	Monitoring RAGBY Full Details
Annex 4	Growth and Risk
Annex 5	Income and Debt

**RESOLVED: That**

- (1) it be noted that in Month 8 (November 2014), the full year forecast projects a gross General Fund overspend of £854,000; and**
- (2) the risks relating to non-delivery of savings as detailed within the report and the continued requirement for mitigation and actions to be identified be also noted.**

125 **CAPITAL MONITORING 2014/15 MONTH 8 (NOVEMBER 2014)**

Councillor Phil Davies introduced a report by the Acting Section 151 Officer which set out the capital position for 2014/15 as at Month 8 (November 2014). The Cabinet noted a number of variances which had been identified, which would impact upon the forecast outturn (Table 2). The report provided information on the progress in delivering the 2014/15 Capital Programme and the sources of funding.

The Cabinet noted that the latest projections from Lambert, Smith and Hampton suggested that the Council would be able to realise £22m from asset disposals including Acre lane, former Rock ferry High School and Manor Drive, Upton. The capital receipts could be invested in other capital projects.

Councillor Phil Davies commented that it was good news that the investment put into the budget had come to fruition. He thanked everyone who had been involved with the key projects outlined in the report including the Cabinet Member – Support Services and the Deputy Director CYPD and Assistant Chief Executive and his team.

Appended to the report were the Revised Capital Programme and Funding, and Capital Receipts.

**RESOLVED: That**

- (1) the spend to date at Month 8 of £18.1 million, with 67% of the financial year having elapsed be noted;**
- (2) the net additional grants of £13,000 in respect of the schemes referred to in Table 2 (Reference C) in the report be noted;**
- (3) the revised Capital Programme of £45.4 million (Table 1) be agreed and referred to Council; and**

- (4) **the re-profiling in respect of the schemes referred to in Table 2, reference D, of £0.111 million be agreed and referred to Council.**

126 **COLLECTION FUND 2014/15**

Councillor Phil Davies introduced a report by the Acting Section 151 Officer that estimated the Collection Fund position for the year ending 31 March 2015. The Cabinet noted that a decision on the distribution of any Collection Fund surplus had to be notified to the precepting bodies by 22 January 2015.

**RESOLVED: That**

- (1) **the declaration of an estimated £4.389 million surplus balance position for the Council Tax proportion of the Collection Fund for the year ending 31 March 2015 be notified to the precepting bodies;**
- (2) **the declaration of the 2014/15 NNDR surplus/deficit position and 2015/16 initial forecast be made by the Leader in conjunction with the Acting Section 151 Officer on, or before, 31 January 2015; and**
- (3) **the Council's share of this 'one-off' distribution of £3.728 million be transferred to the Remodelling/Restructuring Reserve.**

127 **SUNDRY DEBTOR WRITE-OFFS**

Councillor Phil Davies introduced a report by the Director of Resources, recommending the writing off of £192,100.00 in outstanding client contributions which was part of the process of cleansing the long outstanding DASS debt identified in the Independent Report by Eugene Sullivan considered by the Cabinet at its meeting on 23 May 2013 (Minute No. 248 refers.).

Councillor Phil Davies informed that no stone was being left unturned in the Council's efforts to collect all the debt that it could possibly collect.

**RESOLVED:**

**That the report be noted and the debts be written-off as detailed in the report.**

128 **NOTICE OF MOTION - THE CORPORATE PLAN'S IDEALS IN PRACTICE**

The Cabinet had regard to a Notice of Motion which had been proposed by Councillor Phil Gilchrist and seconded by Councillor Dave Mitchell at the meeting of the Council held on 8 December 2014 (Minute No. 82 refers). The

Notice of Motion had been referred by the Mayor to the Cabinet for consideration.

In accordance with Standing Order 7 (6), Councillor Phil Gilchrist had been invited to attend the meeting to provide him with the opportunity to explain the Motion to Cabinet Members.

Councillor Phil Gilchrist informed that he was not happy with the way the decision to close the Lyndale School had been made. It had been a difficult time for parents, Cabinet Members and Officers, it had not been an easy situation to address and he now considered that it was time to take stock of the arrangements that had been made.

Councillor Phil Gilchrist also informed that the parents of children at the School had submitted a number of questions, particularly about finance, in a report circulated to all Members in June 2014 which had never been answered. He appreciated that it was difficult as the proposed closure of the School had been out to public consultation but unfortunately, distress had been caused as no detail or assurances had been provided.

Before the consultation meetings had taken place Councillor Gilchrist informed that he had requested that the issues raised by the parents be recorded accurately and properly about how the proceedings had been reported back to the Cabinet as he considered that it had led to 'a practice of the loss of the sense of the emotion as the bullet points that had been provided did not capture what the parents had wanted to get across'. He was critical about the way that the consultation meetings had been chaired as he was of the opinion that the Chair had been rude and brusque. Councillor Gilchrist was also critical of the consultant's report on the Special Educational Needs (SEN) Improvement Test.

Councillor Phil Gilchrist believed that there may be a legal challenge to the decision to close the Lyndale School. He was aware that funds were being raised for this purpose and legal aid may be involved.

The Notice of Motion had regard to the Council's Corporate Plan and the assurance therein to safeguard and protect the vulnerable people of the Borough and Councillor Phil Gilchrist requested that consideration be given to whether the Council had done thing properly, carefully, whether the SEN Improvement Test had been properly applied and that parental and independent representations that had questioned the proposer's assessment had been taken into account.

The Council had referred the Notice of Motion to the Cabinet that called on it to:

- (a) look at these pledges and commitments (in the Corporate Plan);
- (b) question whether these were carefully and properly applied at all times during the consideration of the needs of the children at the Lyndale School; and
- (c) report to Council on how the SEN Improvement Test was properly applied.

Councillor Phil Davies informed that he had read that there may be a legal challenge to the decision to close the Lyndale School and, with this in mind, asked the Head of Legal and Member Services for advice on how to proceed.

The Head of Legal and Member Services advised that he had not received any notification of a legal challenge at this time. A decision had been taken to close the School and the reasons for it had been articulated. He advised the Cabinet not to speculate in response to the specific points of any potential claim, bearing in mind that the Council was on notice of a claim. The Cabinet was advised to consider the Corporate Plan and engagement issues that had been raised.

Councillor Tony Smith thanked the Head of Legal and Member Services for his advice. He reported that when the Cabinet had agreed to undertake consultation on the proposal to close the Lyndale School every effort had been made to ensure it was as wide as possible. There had been six public meetings held at different times and in various venues to suit all concerned. Councillor Smith informed that he had attended and took part in all six meetings and some Members had visited all five schools that catered for children and young people with complex and profound learning difficulties. At all times Members had been clear about why the proposal had been put forward and what the outcome would mean if it was agreed.

Councillor Tony Smith stated that he was fully satisfied that the Council had demonstrated it was not only a receptive Council that responded, engaged and listened but that it looked after the vulnerable and protected them. An independent consultant had carried out an assessment, an SEN Improvement Test and an equality impact assessment had been carried out on the proposed closure. Councillor Smith confirmed that he was satisfied that the Council had provided opportunities to challenge the proposal and all the information obtained had been put forward for consideration.

Councillor Phil Davies informed that Members had been faithful to their principles and had listened to what people had said about the proposal to close the Lyndale School. He informed Councillor Phil Gilchrist that listening to what people said did not always mean that you had to agree with them. Members had gone the extra mile, they had met with the parents and read their report but he accepted that they had come to a different conclusion to

them but it did not mean that they had not listened. The decision had been based on sound evidence and thorough analysis and Members had understood what the community had said to them. He believed that Members had been faithful to the principles in the Council's Corporate Plan and that was the Cabinet's response.

Councillor Phil Gilchrist enquired whether the analysis had been thorough and pointed out that there had been issues about the creation of the funding formula and its application across various schools but as the issue was 'parked' he would wait and see what the outcome would be'.

Councillor Phil Davies was of the view that the requirements had been met and that the analysis had been thorough and the decision to close the School had been made following the consideration of sound evidence. He informed that whatever happened in respect of a legal case the Cabinet would need to respond to that in due course. Councillor Davies then thanked Councillor Gilchrist for his attendance at the meeting.

## 129 **DRAFT CALENDAR OF MEETINGS FOR THE 2015/16 MUNICIPAL YEAR**

Councillor Ann McLachlan introduced a report by the Head of Legal and Member Services that recommended draft dates for the Council, the Cabinet and Committee meetings ("Council meetings") for the Municipal Year 2015/2016. The proposed draft calendar was appended to the report as Appendix 1. The report also described various issues that had been taken into account when the draft Calendar of Meetings had been drawn up.

A list of other meetings that did not constitute meetings of the Council and therefore did not require inclusion in the Calendar was appended to the report as Appendix 2. Notification of these other meetings was provided to enable Members to manage their diaries.

Councillor Ann McLachlan drew attention to the four Policy and Performance Committee meetings scheduled for April 2016 and proposed that the Council be recommended to agree that they be held in March 2016 instead. She also reminded Members that traditionally the Council had agreed its Corporate Plan at its meeting held in November/December and proposed that the Council be recommended to do this in July 2016 instead and that as soon as possible in the New Municipal Year the Council be recommended to set its Corporate Priorities.

**RESOLVED: That the Cabinet recommends to Council that:**

- (1) the draft Calendar of Meetings for the 2015/16 Municipal Year set out in Appendix 1 to the report be amended as proposed by Councillor Ann McLachlan above and approved, and unless amended at the meeting of Council on 16 March, 2015, be**

**confirmed as the Calendar of Meetings for the Municipal Year 2015/16;**

- (2) the other meetings detailed in Appendix 2 to the report be noted and Members be requested to diarise them as appropriate; and**
- (3) any proposed amendments to the Calendar of Meetings and Appendix 2 to the report be submitted to the Head of Legal and Member Services by 10am on Friday, 13 February 2015.**

## 130 **CORPORATE PLAN PERFORMANCE MANAGEMENT REPORT**

Councillor Ann McLachlan introduced a report by the Director of Public Health and Head of Policy and Performance that updated the Cabinet on the current performance of the Council against the delivery of the Corporate Plan (as at 30 November 2014). The report translated the priorities set out in the Corporate Plan into a coherent and measurable set of performance outcome measures and targets. Members were requested to consider the details of the report and highlight any issues.

The Corporate Plan Performance Report (Appendix 1 to the report) set out performance against 20 outcome measures. Of these there were 2 measures where the outcome metric was under design or due to report at the end of the year. A commentary was provided against those.

Of the 20 measures that were RAG rated, 16 were rated green, 1 was rated amber and 3 were rated red. The 3 measures rated red had action plans (included as Appendices 2, 3 and 4) which referred to:

- NHS Health Checks – Take up
- Rate of Children in Need (per 10,000 population 0-17)
- Performance appraisals completed.

Councillor Ann McLachlan reported that the information contained in the report was a little retrospective but the majority of outcome measures were on target with the exception of the three listed above for which there was an exception report in each case. She was confident that the issues could be addressed/resolved and that there would be improvements. The Future Council initiative had impacted on the completion of the Performance Appraisals, it was unlikely this would be achieved but Officers were committed to improving this target in the next Municipal Year.

### **RESOLVED:**

**That the content of the Corporate Plan Performance Management Report be noted.**

Councillor Stuart Whittingham left the meeting.

131 **COMMUNITY INFRASTRUCTURE LEVY - PROGRESS UPDATE**

Councillor Pat Hackett introduced a report by the Strategic Director for Regeneration and Environment that set out progress for securing developer contributions through the introduction of a Community Infrastructure Levy (CIL) charge on new developments in Wirral. Appended to the report were the Local Plan and Community Infrastructure Levy Economic Viability Study Interim Baseline Report and its three Appendices.

The Cabinet noted that the initial findings emerging from baseline economic viability testing indicated that there may be a potential opportunity to introduce a CIL levy, without undermining development viability, in some areas of the Borough and for some types of development, including housing and retail development.

National policy expected CIL charges to be worked up and tested alongside the Local Plan for the Borough. The report, therefore, sought the Cabinet's endorsement for continuing work to secure the evidence necessary to support the introduction of a CIL charge and the development of a draft schedule of the charges which could be applied. Once the work was complete, a further report would be presented for final approval by Members.

Councillor Phil Davies stated that any opportunity to secure additional funding for infrastructure was worth looking into and there was a lot more work to be done before the Cabinet could embrace this initiative. It was important to consider what other local authorities, particularly the neighbouring ones, did in relation to CIL.

**RESOLVED: That**

- (1) the findings of the interim baseline economic viability study, attached to the report, as the basis for the further development of a potential charging schedule for a Community Infrastructure Levy for Wirral be approved;**
- (2) the approach for preparing an updated Infrastructure Development Plan, with input from all Council Departments and Heads of Service and external infrastructure providers, as detailed in Section 5 of the report be endorsed; and**
- (3) a draft schedule of charges, revised Infrastructure Development Plan, report of implementation costs and an up-to-date assessment of the impact on viability of future development be prepared, for the Council's approval, once the content of the Core Strategy Local Plan has been approved.**

Councillor Stuart Whittingham returned to the meeting.

132 **TRANSFER OF CERTAIN POLLUTION CONTROL FUNCTIONS WITHIN WIRRAL PORT AREAS FROM LIVERPOOL CITY COUNCIL TO WIRRAL COUNCIL**

Councillor Bernie Mooney introduced a report by the Strategic Director of Regeneration and Environment which sought approval for the transfer of certain of Liverpool City Council's Pollution Control powers, in respect of Port Areas located within Wirral to Wirral Council.

This action would clarify existing arrangements through a formal legal transfer under the Local Government Acts 1972 and 2000 with the aim of ensuring that clear governance arrangements were in place to allow partnership working for the benefit of businesses and residents.

**RESOLVED: That**

- (1) the transfer of Liverpool City Council's pollution control powers under the Environmental Protection Act 1990 and the Pollution Prevention and Control Act 1999 (and subordinate legislation) within Wirral port areas (as defined in the Mersey Port Health Order) to Wirral Council be approved; and**
- (2) the Strategic Director of Transformation and Resources be authorised to enter into appropriate protocol agreements with Liverpool City Council.**

133 **PUBLIC HEALTH INVESTMENTS 2015/2016**

Councillor Chris Jones introduced a report by the Director of Public Health that provided detail of the proposed expenditure of the Public Health Grant for 2015/16. This included proposed commissioning activity for 2015/16 and early information on proposed commissioning intentions for 2016/17.

Appended to the report was:

- Appendix 1 – Categories for reporting local authority public health spend in 2015/16; and
- Appendix 2 – Proposed public health expenditure for 2015/16.

**RESOLVED:**

**That the proposed investment of the Public Health grant for 2015/16 be approved, and the Director of Public Health be authorised to implement actions accordingly.**